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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,047	12/29/2000	Suk H. Cho	09143-012001	8973
26191	7590	04/19/2004	EXAMINER	
FISH & RICHARDSON P.C. 3300 DAIN RAUSCHER PLAZA 60 SOUTH SIXTH STREET MINNEAPOLIS, MN 55402			KUMAR, PREETI	
			ART UNIT	PAPER NUMBER
			1751	
DATE MAILED: 04/19/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,047

Applicant(s)

CHO ET AL.

Examiner

Preeti Kumar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 56-78 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 56-78 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Final Rejection

1. Claims 56-78 are pending.
2. The objection to claim 58 under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of previous claim 56 is withdrawn in light of applicants remarks, stating that claim 56 does not exclude phosphate builders, just includes one non-phosphate builder. Claim 58 excludes all phosphate builders.
3. The rejection of claims 56-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marshall et al. (US 5,691,292), in view of Ospinal et al. (US 5,965,508) is maintained for the reasons recited in the previous office action dated September 3, 2003 and further explained below.

Response to Arguments

4. Applicant's arguments filed January 26, 2004 have been fully considered but they are not persuasive. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).
5. Applicant's urge that Marshall et al. do not disclose a liquid automatic dishwashing detergent having a pH of less than about 7.0 as recited by the newly amended claims. However, Marshall et al. teach a disclose a liquid automatic

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dishwashing detergent having the same components as recited by the instant claims at a pH of between about 7 and about 11. The range claimed by the instant application overlaps with the range disclosed by the primary reference. Furthermore, Marshall et al. provide motivation to lower the pH of a liquid automatic dishwashing detergent having the same components as recited by the instant claims. The teachings of Marshall et al are combined with the teachings of Ospinal et al. because the primary reference does not teach a liquid automatic dishwashing detergent having a pH of less than about 7 as recited by the instant claims but provides motivation to formulate an analogous liquid dishwashing detergent comprising the same components in the same proportions as recited by the instant claims at a pH of about 7 in general.

6. Also, applicants urge that Ospinal et al. fail to mention a single pH value for a liquid automatic dishwashing detergent. Examiner would like to point out that the instant claims also do not mention a single pH value, they recite a range of less than about 7. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

7. In response to applicant's argument that Ospinal et al. do not teach a specific a liquid automatic dishwashing detergent, the examiner would like to point out that the teachings of Ospinal et al. were not used as a primary reference to recite a liquid automatic dishwashing detergent having the same components as recited by the instant claims. The teachings of Ospinal et al. are relied upon for the general teaching of

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detergent compositions formulated such that they will have a pH of between about 4.0 and about 10.0, more preferably between about 5 and about 9.5. Techniques for controlling pH at recommended usage levels include the use of buffers, alkali, acids, etc., and are well known to those skilled in the art. See col.9, ln.44-49.

8. In response to applicant's argument that Marshall et al. teach liquid dishwashing detergent compositions excluding clays and Ospinal et al. teach compositions including softening clays, the examiner would like to point out that the teachings of Marshall et al. recite the use of thickeners in place of clays (See col.5, ln.24) and Ospinal et al. mention the optional use of clays. See col.14, ln.25.

9. Thus, the rejection of claims 56-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marshall et al. (US 5,691,292), in view of Ospinal et al. (US 5,965,508) is maintained because it would have been obvious, to one of ordinary skill in the art, at the time the invention was made, to formulate a liquid dishwashing detergent having a pH value less than about 7.0 and further comprising the other requisite components of the detergent composition in the specific proportions as recited by the instant claims, with a reasonable expectation of success, because the broad teachings of Marshall et al. in combination with Ospinal et al. suggest a liquid detergent composition formulated in such a manner as to have a pH of less than 7.0 and comprising protease enzyme and xanthan gum and the other requisite components of the detergent composition in the same proportions as recited by the instant claims and furthermore, Marshall et al. provide motivation to lower the pH of the detergent composition for additional dishwasher article safety.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Preeti Kumar whose telephone number is 571-272-1320. The examiner can normally be reached on M-F 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Preeti Kumar
Examiner
Art Unit 1751

PK



MARGARET EINSMANN
PRIMARY EXAMINER
GROUP 1100